

## **Assembly Bill No. 2877**

### **CHAPTER 190**

An act to amend Sections 11322.5, 19000, 19011, 19104, 19104.5, 19150, 19151, 19152, 19751, and 19802 of the Welfare and Institutions Code, relating to human services.

[Approved by Governor August 25, 2016. Filed with  
Secretary of State August 25, 2016.]

#### **LEGISLATIVE COUNSEL'S DIGEST**

AB 2877, Committee on Human Services. CalWORKs: rehabilitation services.

Existing law establishes the California Work Opportunity and Responsibility to Kids (CalWORKs) program, under which each county provides cash assistance and other benefits to qualified low-income families using federal, state, and county funds. Existing law requires a recipient of CalWORKs to participate in welfare-to-work activities as a condition of eligibility, as specified. Existing law sets forth a statement of legislative intent relating to the CalWORKs program.

Existing federal income tax laws allow a refundable earned income tax credit for certain low-income individuals who have earned income and who meet certain other requirements. Existing state law, for taxable years beginning on or after January 1, 2015, in modified conformity with federal income tax laws, allows an earned income credit against personal income tax, and a payment in excess of that credit amount, to an eligible individual, as specified. Existing law requires counties, at each regular eligibility determination, to ask a CalWORKs recipient whether the recipient is eligible for and takes advantage of the federal earned income tax credit. If the recipient may be eligible and does not participate, existing law requires the county to give the recipient the federal earned income tax credit form and to encourage and assist the recipient to take advantage of it.

This bill would make technical and clarifying changes to the intent language relating to the CalWORKs program. The bill would also require counties to ask a CalWORKs recipient whether the recipient is eligible for and takes advantage of the state earned income tax credit that became available in 2015, to give the recipient the state earned income tax credit form, and to encourage and assist the recipient to take advantage of it. By requiring a higher level of service of county employees, the bill would impose a state-mandated local program.

Existing federal law, the Rehabilitation Act of 1973, provides federal funding to states that provide rehabilitation and vocational services to individuals with disabilities, as defined, including individuals with the most

significant disabilities, as defined, in accordance with guidelines established pursuant to the act.

Existing state law establishes the Department of Rehabilitation in the California Health and Human Services Agency to provide vocational rehabilitation services to individuals with disabilities, and directs the department to cooperate with the federal government in carrying out the purposes of federal statutes pertaining to those individuals. Existing law provides specified services to individuals with the most severe disabilities. Existing law requires an individualized written rehabilitation program to be developed for each individual who has been determined to be eligible for these services.

This bill would make technical changes to those provisions that, among other things, would delete references to individuals with the most severe disabilities, and instead, refer to individuals with the most significant disabilities, consistent with the federal act. The bill would also delete references to an individualized written rehabilitation program, and would instead refer to an individualized plan for employment.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 11322.5 of the Welfare and Institutions Code is amended to read:

11322.5. (a) It is the intent of the Legislature to do each of the following:

(1) Maximize the ability of CalWORKs recipients to benefit from the federal or state Earned Income Tax Credit (EITC), including retroactive EITC credits and the Advance EITC, take advantage of the earned-income disregard to increase their CalFresh benefits, and accumulate credit toward future social security income.

(2) Educate and empower all CalWORKs participants who receive the federal or state EITC to save or invest part or all of their credits in instruments such as individual development accounts, 401(k) plans, 403(b) plans, IRAs, 457 plans, Coverdell ESA plans, an account established pursuant to the California Secure Choice Retirement Savings Program (Title 21 (commencing with Section 100000), of the Government Code), restricted accounts pursuant to subdivision (a) of Section 11155.2, or 529 plans, and to take advantage of the federal Assets for Independence program and other matching funds, tools, and training available from public or private sources, in order to build their assets.

(b) It is the intent of the Legislature that counties encourage CalWORKs recipients to participate in activities that will maximize their receipt of the EITC. To this end, counties may do all of the following:

(1) Structure welfare-to-work activities pursuant to subdivisions (a) to (j), inclusive, of Section 11322.6 to give recipients the option of maximizing the portion of their CalWORKs benefits that meets the definition of “earned income” in Section 32(c)(2) of the Internal Revenue Code.

(2) Inform CalWORKs recipients of each of the following:

(A) That earned income, either previous or future, may make them eligible for the federal or state EITC, including retroactive EITC credits and the Advance EITC, increase their CalFresh benefits, and accumulate credit toward future social security income.

(B) That recipients, as part of their welfare-to-work plans, have the option of engaging in subsidized employment and grant-based on-the-job training, as specified in Section 11322.6, and that participating in these activities will increase their earned income to the extent that they meet the requirements of federal law.

(C) That receipt of the federal or state EITC does not affect their CalWORKs grant and is additional tax-free income for them.

(D) That a CalWORKs recipient who receives the federal or state EITC may invest these funds in an individual development account, 401(k) plan, 403(b) plan, IRA, 457 plan, 529 college savings plan, Coverdell ESA, an account established pursuant to the California Secure Choice Retirement Savings Program, or restricted account, and that investments in these accounts will not make the recipient ineligible for CalWORKs benefits or reduce the recipient’s CalWORKs benefits.

(3) At each regular eligibility redetermination, the county shall ask a recipient whether the recipient is eligible for and takes advantage of the EITC. If the recipient may be eligible and does not participate, the county shall give the recipient the federal or state EITC form and encourage and assist the recipient to take advantage of it.

SEC. 2. Section 19000 of the Welfare and Institutions Code is amended to read:

19000. (a) The Legislature finds and declares as follows:

(1) Work is a valuable and important activity, both for individuals and society, and fulfills the need of an individual to be productive, promotes independence, enhances self-esteem, and allows for participation in the mainstream of life.

(2) Disability is a natural part of human experience and in no way diminishes the capacity of individuals to live independently, enjoy self-determination, make choices, contribute to society, pursue meaningful careers, and enjoy inclusion and integration in the economic, political, social, cultural, and educational mainstream of society.

(3) As a group, individuals with disabilities experience staggering levels of unemployment and poverty.

(4) Increased employment of, and independent living for, individuals with disabilities can be achieved by providing individualized training,

independent living services, educational and support services, and meaningful opportunities for employment in integrated work settings with reasonable accommodations.

(5) Individuals with disabilities, including individuals with the most significant disabilities, have demonstrated their ability to achieve gainful employment in integrated settings if appropriate services and supports are provided.

(6) The provision of vocational rehabilitation services can enable individuals with disabilities, including individuals with the most significant disabilities, to pursue meaningful careers by securing gainful employment commensurate with their abilities and capabilities.

(b) The purpose of this division is to assist the Department of Rehabilitation in operating comprehensive, coordinated, effective, efficient, and accountable programs of vocational rehabilitation and independent living that are designed to assess, plan, develop, and provide services for individuals with disabilities, particularly individuals with the most significant disabilities, consistent with their strengths, resources, priorities, concerns, abilities, and capabilities, so that these individuals may prepare for and engage in gainful employment and live more independently.

(c) The Department of Rehabilitation's vocational rehabilitation and independent living programs shall be consistent with the national policy toward people with disabilities articulated in the Americans with Disabilities Act of 1990 (Public Law 101-336) and the Rehabilitation Act of 1973, as amended.

(d) It shall be the goal of the Department of Rehabilitation to provide individuals with disabilities with the tools necessary to do all of the following:

- (1) Make informed choices and decisions.
- (2) Maximize employment, independence, and economic and social self-sufficiency in the mainstream of society.
- (3) Achieve equality of opportunity and inclusion and integration into all aspects of society.

(e) The Department of Rehabilitation's vocational rehabilitation and independent living programs, projects, and activities shall be carried out in a manner consistent with the following principles:

- (1) Respect for individual dignity, personal responsibility, self-determination, and pursuit of independent living and meaningful careers, based on informed choice of individuals with disabilities.
- (2) Respect for the privacy, rights, and equal access of individuals with disabilities, including, but not limited to, the use of accessible formats.
- (3) Individuals with disabilities, including individuals with the most significant disabilities, shall be generally presumed to be capable of engaging in gainful employment, and the provision of individualized vocational rehabilitation services can improve their ability to become gainfully employed.
- (4) Promotion of independence, inclusion, integration, and full participation of individuals with disabilities.

(5) Individuals with disabilities shall be provided the opportunities to obtain competitive employment in integrated settings.

(6) Individuals with disabilities shall be active participants in their own rehabilitation programs, including, but not limited to, making meaningful and informed choices about the selection of their vocational goals and objectives and the vocational rehabilitation services they receive.

(7) Support for the involvement of a parent, a family member, a guardian, an advocate, or an authorized representative, if an individual with a disability requests, desires, or needs that support.

(8) Individuals with disabilities and their advocates are full partners in the vocational rehabilitation and independent living programs and shall be involved on a regular basis and in a meaningful manner with respect to policy development and implementation.

(9) Qualified vocational rehabilitation counselors, and other qualified personnel facilitate the accomplishment of the employment and independent living goals and objectives of an individual.

(10) Accountability measures must facilitate and not impede the accomplishment of the goals and objectives of the department's programs, including providing vocational rehabilitation and independent living services to, among others, individuals with the most significant disabilities.

SEC. 3. Section 19011 of the Welfare and Institutions Code is amended to read:

19011. The people of the state accept the provisions and benefits of the federal Workforce Innovation and Opportunity Act (Public Law 113-128) and any subsequent amendments thereto.

SEC. 4. Section 19104 of the Welfare and Institutions Code is amended to read:

19104. (a) Subject to the limitation of Section 19102 and to the extent federal funds are available, an individualized plan for employment shall be developed for each individual determined to be eligible under this chapter.

(b) The individualized plan for employment shall do all of the following:

(1) Be designed to achieve the employment objective of the individual, consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual, and, to the maximum extent appropriate, to include placement in integrated settings.

(2) Be jointly developed and agreed upon by the eligible individual, or when appropriate the individual's parent, family member, guardian, advocate, or authorized representative, and the department. In developing the program, the department shall inform the individual about and involve the individual in choosing among alternative goals, objectives, available services, entities providing the services, and the methods used to provide or procure the services.

(3) Contain all of the information required by federal law and regulations, including a statement of the specific vocational goods and services, as defined in Section 19150, to be provided and the terms and conditions under which available goods and services will be provided, to the extent federal funds are available, to the individual in the most integrated setting.

(4) To the extent possible, utilize the information specified in Section 19100.

SEC. 5. Section 19104.5 of the Welfare and Institutions Code is amended to read:

19104.5. (a) For the purpose of ensuring, consistent with federal law, that eligible individuals are given meaningful, informed, and increased choices in the rehabilitation process, identification of all of the following shall occur for each eligible individual with the full participation of that individual:

(1) Possible alternative employment goals and outcomes that are consistent with the unique strengths, resources, priorities, concerns, abilities, and capabilities of the individual.

(2) The service options that are available to achieve the employment goals and outcomes selected by the individual.

(3) For each service selected by the individual, the entities available to provide those services.

(b) Choices made by the eligible individual in accordance with subdivision (a) shall be incorporated into the individualized plan for employment.

SEC. 6. Section 19150 of the Welfare and Institutions Code is amended to read:

19150. (a) The term “vocational rehabilitation services” means the following services and goods:

(1) An assessment for determining eligibility and vocational rehabilitation needs by qualified personnel, including if appropriate, an assessment by personnel skilled in rehabilitation technology or an assessment for supported employment as an employment outcome.

(2) Counseling, guidance, and work-related placement services for persons with disabilities, including job search assistance, placement assistance, job retention services, personal assistance services, followup services, and specific postemployment services necessary to assist those individuals in maintaining, regaining, or advancing in their employment, both competitive and supported.

(3) Training services for persons with disabilities, which shall include personal and vocational adjustment, books, and other training materials.

(4) Auxiliary aide services, such as reader services for individuals who are blind and interpreter services for individuals who are deaf.

(5) Job coaching services that may include any of the following:

(A) On-the-job skill training.

(B) Observation or supervision at the worksite.

(C) Consultation or training, or both, of coworkers and supervisors.

(D) Assistance in integrating into the work environment.

(E) Destination training.

(F) Assistance with public support agencies.

(G) Family and residential provider consultation.

(H) Any other on- or off-the-job support services needed to reinforce and stabilize job placement.

(6) Recruitment and training services for persons with disabilities to provide them with new employment opportunities in the fields of rehabilitation, health, welfare, public safety, and law enforcement, and other appropriate service employment.

(7) Physical and mental restoration services, including, but not limited to, the following:

(A) Corrective surgery or therapeutic treatment necessary to correct or substantially modify a physical or mental condition which is stable or slowly progressive and constitutes an impediment to employment, but is of such a nature that the correction or modification may reasonably be expected to eliminate or substantially reduce the impediment to employment within a reasonable length of time.

(B) Necessary hospitalization in connection with surgery or treatment.

(C) Prosthetic and orthotic devices.

(D) Eyeglasses and visual services as prescribed by a physician skilled in the diseases of the eye or by an optometrist.

(8) Maintenance, not exceeding the additional costs incurred while participating in rehabilitation.

(9) Occupational licenses, tools, equipment, and initial stocks and supplies.

(10) Rehabilitation technology services, which shall include rehabilitation engineering and assistive technology services and devices.

(11) On-the-job or other related personal assistance services provided to an individual with a disability who is receiving other vocational rehabilitation services.

(12) Transition services to students, pursuant to cooperative agreements established under Section 19013, that promote or facilitate the accomplishment of long-term rehabilitation goals and intermediate rehabilitation objectives.

(13) Referral and other services designed to assist individuals with disabilities in securing needed services from other agencies through agreements developed pursuant to Section 19013.

(14) The provision of other programs and services when provided for the benefit of groups of individuals, including, but not limited to, any of the following:

(A) In the case of any type of small business operated by individuals with significant disabilities, the operation of which can be improved by management services and supervision provided by the department, the provision of those services and supervision, alone or together with the acquisition by the department of vending stands and other equipment and initial stocks and supplies.

(B) The establishment, development, or improvement of community rehabilitation programs that promise to contribute substantially to the rehabilitation of a group of individuals but that are not related directly to the rehabilitation plan of any one individual with a disability, providing the program is used to provide services that promote integration and competitive employment, including supported employment.

(C) Technical assistance and support services to businesses that are not subject to Subchapter 1 (commencing with Section 12111) of Chapter 126 of Title 42 of the United States Code and that are seeking to employ individuals with disabilities.

(15) Transportation in connection with the rendering of any other vocational rehabilitation service.

(16) Any other goods and services necessary to render a person with disabilities employable.

(17) Services to the families of persons with disabilities when those services will contribute substantially to the rehabilitation of those individuals.

(b) For the purposes of subdivision (a), full consideration of eligibility for any comparable service or benefit shall be utilized to the extent permitted by federal law.

SEC. 7. Section 19151 of the Welfare and Institutions Code is amended to read:

19151. (a) The term “individual with a disability” means any individual who:

(1) Has a physical or mental impairment which constitutes or results in a substantial impediment to employment.

(2) Can benefit in terms of an employment outcome from vocational rehabilitation services provided pursuant to this chapter.

(b) The term “individual with a significant disability” shall have the same meaning as specified in the federal Rehabilitation Act of 1973, as amended, and includes, but is not limited to, any individual who has a disability or is blind as determined pursuant to Subchapter 2 (commencing with Section 401) and Subchapter XVI (commencing with Section 1381) of Chapter 7 of Title 42 of the United States Code.

SEC. 8. Section 19152 of the Welfare and Institutions Code is amended to read:

19152. (a) “Community rehabilitation program” means a program which is operated for the primary purpose of providing directly or facilitating the provision of vocational rehabilitation services to persons with disabilities and which provides singly or in combination one or more of the following services to enable persons with disabilities to maximize opportunities for employment, including career advancement:

(1) Comprehensive rehabilitation services which shall include, under one management, medical, psychological, social, and vocational services.

(2) Testing, fitting, or training in the use of prosthetic and orthotic devices.

(3) Recreational therapy.

(4) Physical and occupational therapy.

(5) Speech, language, and hearing therapy.

(6) Psychiatric, psychological, and social services.

(7) Personal and work adjustment.

(8) Vocational training (in combination with other rehabilitation services).

(9) Evaluation or control of special disabilities.



(10) Assessment for determining eligibility and vocational needs, including evaluation for supported employment, development, and placement in jobs.

(11) Development of, and placement in, jobs.

(12) Job coaching services to enable a person with disabilities to obtain or maintain supported or competitive employment.

(13) Extended employment for persons with significant disabilities who cannot be readily absorbed into the competitive labor market.

(14) Personal assistance services.

(15) To the extent provided under federal law, services similar to the services described in paragraphs (1) to (13), inclusive.

(b) All medical and related health services shall be prescribed by, or under the formal supervision of, persons licensed to practice medicine or surgery in the state.

SEC. 9. Section 19751 of the Welfare and Institutions Code is amended to read:

19751. The department shall administer the Independent Living Services Program. This program shall provide services to individuals with significant disabilities, in accordance with federal law. The department shall, in the administration of the program, subgrant its allocation of federal funds, and shall comply with all requirements set forth in the federal Rehabilitation Act of 1973, as amended, and with all rules and regulations adopted thereunder.

SEC. 10. Section 19802 of the Welfare and Institutions Code is amended to read:

19802. For the purposes of this chapter, an “individual with a disability” is as defined pursuant to the federal Rehabilitation Act of 1973 (Section 705 of Title 29 of the United States Code), as amended.

SEC. 11. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.